

### **REMARKS**

Applicants request reconsideration of the present application in light of the present claim amendments and remarks.

### **IDS**

An IDS was filed on June 17, 2005 citing 93 references. The Examiner is respectfully requested to return an initialed copy of the related Forms SB-08 with the next communication from the Examiner.

### **Priority Document**

Applicants have filed certified copies of the foreign priority documents in US Application No. 08/162,698 (now issued as US Patent No. 5,480,868), which is the first US priority document of the present application. Acknowledgement of receipt of the certified copies of the foreign priority documents is respectfully requested in the next communication from the Examiner.

### **Double Patenting**

In view of the possibility that claim 1 may be further amended or separated in a divisional application, applicants will defer responding to the rejection.

### **35 USC 112, First Paragraph**

Claim 16 was previously rejected under the first paragraph of 35 U.S.C. 112. Applicants note that this rejection is improper because claim 16 never had any recitations with respect to the peptide being an "LH-RH antagonist." Therefore, applicants request the withdrawal of this rejection.

### **35 USC 112, Second Paragraph**

Claims 1-3 and 11-16 have been rejected under the second paragraph of 35 USC 112 for indefiniteness. With respect to the term "about," applicants made the assertion that this term has been accepted claim terminology in chemical practice dating back several decades, thereby evidencing that (1) there is no *per se* prohibition for using the term about in claims and (2) the fact that the PTO has often allowed these term in claim language in evidence that this term is not an indefinite phrase.

A search of the USPTO's online patent database, attached as Exhibit 1, shows that the term "about" has appeared in the claims of 754,995 patents issued since 1976. In fact a

search of the USPTO online patent database, attached as Exhibit 2, for patents issued with the present Examiner, shows that he has allowed 90 patents to issue with the term “about” in the claims. For example in US Patent No. 6,787,158, which was examined by the present Examiner, the term “about” appears nine times in the claims in the following phrases “a substantially deionized lactic raw material having a pH of about 1 to 4.5,” “sweet whey having a solids content of about 10 to 23 percent by weight” and “membrane with a mean cut-off region of about 3000 daltons.”

Moreover, as noted in MPEP 2173.05(b), case law has held that the term about is definite. “The term “about” used to define the area of the lower end of a mold as between 25 to about 45% of the mold entrance was held to be clear, but flexible. *Ex parte Eastwood*, 163 USPQ 316 (Bd. App. 1968). Similarly, in *W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), the court held that a limitation defining the stretch rate of a plastic as “exceeding about 10% per second” is definite because infringement could clearly be assessed through the use of a stopwatch.”

With respect to the present claims, the values for “a weight average molecular weight of about 5,000 to about 25,000, as determined by GPC, a dispersion value of about 1.2 to about 4.0 and the proportion of the physiologically active peptide ranges from about 0.01 to about 50% (w/w) based on the biodegradable polymer” could easily be assessed by one of skill in the art, therefore the claims are definite.

#### **35 USC 102(e)**

Claim 1 has been amended to include the recitations of claims 11-15, thereby overcoming the rejection for anticipation by US 5,110,904 (Haviv).

#### **35 USC 103**

Applicants urge that the references cited by the Examiner do not teach or suggest all of the recitations of claim 1, therefore the rejection for obviousness has been overcome.

**Conclusion**

For the foregoing reasons, applicants respectfully request allowance of the present application.

Respectfully submitted,

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By 

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Should additional fees be necessary in connection with the filing of this paper, or if a petition for extension of time is required for timely acceptance of same, the Commissioner is hereby authorized to charge Deposit Account No. 19-0741 for any such fees; and applicant(s) hereby petition for any needed extension of time.

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**ACLM/about:** 754995 patents.

**Hits 1 through 50 out of 754995**

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PAT. NO.	Title
1 <a href="#">6,981,279</a>	<a href="#">T Method and apparatus for replicating and analyzing worm programs</a>
2 <a href="#">6,981,266</a>	<a href="#">T Network management system and method</a>
3 <a href="#">6,981,239</a>	<a href="#">T Method, system and apparatus for constructing resistive vias</a>
4 <a href="#">6,981,228</a>	<a href="#">T Interactive topology graphs for visualization and characterization of SONET consumption patterns</a>
5 <a href="#">6,981,219</a>	<a href="#">T Method and system for processing formulas and curves in a document</a>
6 <a href="#">6,981,218</a>	<a href="#">T Document processing apparatus having an authoring capability for describing a document structure</a>
7 <a href="#">6,981,216</a>	<a href="#">T Method and system for subpoena generation including time-dependent reverse number search</a>
8 <a href="#">6,981,174</a>	<a href="#">T Method and apparatus for a redundant port</a>
9 <a href="#">6,981,158</a>	<a href="#">T Method and apparatus for tracing packets</a>
10 <a href="#">6,981,121</a>	<a href="#">T Method for aligning stored data</a>
11 <a href="#">6,981,112</a>	<a href="#">T Dynamic cache disable</a>
12 <a href="#">6,981,021</a>	<a href="#">T Position-link chat system, position-linked chat method, and computer product</a>
13 <a href="#">6,981,020</a>	<a href="#">T Apparatus and methods for routing electronic mail in a processing center</a>
14 <a href="#">6,981,019</a>	<a href="#">T System and method for a computer based cooperative work system</a>
15 <a href="#">6,981,000</a>	<a href="#">T Customer relationship management system and operation method thereof</a>
16 <a href="#">6,980,999</a>	<a href="#">T Method and system for providing dietary information</a>
17 <a href="#">6,980,993</a>	<a href="#">T Schemas for a notification platform and related information services</a>
18 <a href="#">6,980,991</a>	<a href="#">T Directory information system for providing toll free telephone numbers</a>

- 19 [6,980,990](#) **T** [Internet domain name registration system](#)
- 20 [6,980,987](#) **T** [Graphical user interface-relational database access system for a robotic archive](#)
- 21 [6,980,984](#) **T** [Content provider systems and methods using structured data](#)
- 22 [6,980,980](#) **T** [Summary-detail cube architecture using horizontal partitioning of dimensions](#)
- 23 [6,980,978](#) **T** [Site integration management system for operational support service in an internet data center](#)
- 24 [6,980,958](#) **T** [Apparatus and methods for monitoring and modifying anticoagulation therapy of remotely located patients](#)
- 25 [6,980,956](#) **T** [Machine apparatus and its driving method, and recorded medium](#)
- 26 [6,980,938](#) **T** [Method for removal of PID dynamics from MPC models](#)
- 27 [6,980,930](#) **T** [Communication terminal and information processing apparatus of a payment system](#)
- 28 [6,980,926](#) **T** [Detection of randomness in sparse data set of three dimensional time series distributions](#)
- 29 [6,980,917](#) **T** [Optimization of die yield in a silicon wafer "sweet spot"](#)
- 30 [6,980,896](#) **T** [Earth-moving vehicle including pivotable maneuvering station](#)
- 31 [6,980,888](#) **T** [Method and apparatus for predicting the result of a coloration](#)
- 32 [6,980,876](#) **T** [Temperature-sensing wafer position detection system and method](#)
- 33 [6,980,870](#) **T** [Method and apparatus for optimizing, managing and scheduling personal relationships](#)
- 34 [6,980,865](#) **T** [Implantable shielded medical device](#)
- 35 [6,980,863](#) **T** [Neurological stimulation lead extension](#)
- 36 [6,980,858](#) **T** [Method and system for atrial defibrillation](#)
- 37 [6,980,855](#) **T** [Microneedles for minimally invasive drug delivery](#)
- 38 [6,980,848](#) **T** [Optical MRI catheter system](#)
- 39 [6,980,845](#) **T** [Multi-slice cerebral blood flow imaging with continuous arterial spin labeling MRI](#)
- 40 [6,980,843](#) **T** [Electrophysiology catheter](#)
- 41 [6,980,829](#) **T** [Portable terminal system and operation method thereof](#)
- 42 [6,980,822](#) **T** [Method and device for control of the transmission power of a cellular mobile telephone](#)
- 43 [6,980,806](#) **T** [Radio system](#)
- 44 [6,980,771](#) **T** [CDMA wireless communication system including finite impulse response filter and phase equalizer for inter-chip interference reduction](#)
- 45 [6,980,762](#) **T** [Modular multi-stage fusing system](#)
- 46 [6,980,748](#) **T** [SiGe or germanium flip chip optical receiver](#)
- 47 [6,980,747](#) **T** [Optically amplified receiver](#)
- 48 [6,980,736](#) **T** [Verification of path integrity in optical switch network](#)
- 49 [6,980,735](#) **T** [Camera, an image inputting apparatus, a portable terminal device, and a method for transforming the camera configuration](#)
- 50 [6,980,734](#) **T** [Lamp filament design](#)
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(ACLM/about AND (EXP/(david AND lukton) OR EXA/(david AND lukton))): 90 patents.

Hits 1 through 50 out of 90

Final 40 Hits

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Refine Search

PAT. NO.	Title
1 6,974,800	<a href="#">T Formulations comprising an inhibitor of carboxypeptidase U and A thrombin inhibitor</a>
2 6,911,431	<a href="#">T Pharmaceutical angiostatic dipeptide compositions and methods of use thereof</a>
3 6,890,533	<a href="#">T Betulinol derivatives</a>
4 6,875,737	<a href="#">T Multivalent compounds for crosslinking receptors and uses thereof</a>
5 6,849,712	<a href="#">T Peptides with .beta.1 integrin subunit dependent cell adhesion modulating activity</a>
6 6,806,363	<a href="#">T Cobalamin conjugates useful as antitumor agents</a>
7 6,794,492	<a href="#">T Perfluoroalkyl compounds and their methods of use and manufacture</a>
8 6,794,357	<a href="#">T Compositions for inhalation</a>
9 6,787,158	<a href="#">T Process for treatment of a lactic raw material</a>
10 6,780,844	<a href="#">T Calcium phosphopeptide complexes</a>
11 6,740,634	<a href="#">T Sustained release compositions, process for producing the same and utilization thereof</a>
12 6,734,162	<a href="#">T Mixed buffer system for stabilizing polypeptide formulations</a>
13 6,730,660	<a href="#">T Peritoneal dialysis solutions with polypeptides</a>
14 6,720,407	<a href="#">T Method for administering insulintropic peptides</a>
15 6,686,336	<a href="#">T N-terminal D(-)-penicillamine peptides as aldehyde sequestration agents</a>
16 6,686,335	<a href="#">T Hydroxamate-containing cysteine and serine protease inhibitors</a>
17 6,669,963	<a href="#">T Stable particle in liquid formulations</a>
18 6,635,617	<a href="#">T Insulin preparations for pulmonary delivery containing menthol</a>
19 6,596,867	<a href="#">T Tartrate salt of a substituted dipeptide as growth hormone secretagogue</a>
20 6,596,845	<a href="#">T Cinnamoyl distamycin analogous derivatives, process for their preparation, and their use as antitumor agents</a>

- 21 [6,590,071](#) **T** [Reversible aqueous pH sensitive lipidizing reagents, compositions and methods of use](#)
- 22 [6,512,093](#) **T** [Method of preparing lipoproteins from fatty acids present in olive oil](#)
- 23 [6,506,732](#) **T** [Enzymatic hydrolysate of milk proteins](#)
- 24 [6,500,801](#) **T** [Treatment for Dutch elm disease](#)
- 25 [6,492,531](#) **T** [Method of treating cognitive disorders](#)
- 26 [6,465,615](#) **T** [Monohydrate lisinopril](#)
- 27 [6,462,181](#) **T** [Process for preparing a kappa-caseino glycomacropeptide or a derivative thereof](#)
- 28 [6,432,922](#) **T** [Inhibitors of urokinase and blood vessel formation](#)
- 29 [6,380,163](#) **T** [Peritoneal dialysis solutions with polypeptides](#)
- 30 [6,348,448](#) **T** [Peptidyl-2-amino-1-hydroxyalkanesulfonic acid cysteine protease inhibitors](#)
- 31 [6,342,582](#) **T** [Reaction and dissolving medium for peptides and synthesis method using this medium](#)
- 32 [6,331,610](#) **T** [Method for treating AIDS and HIV infection using select peptides from the beta subunit of human chorionic gonadotropin](#)
- 33 [6,313,094](#) **T** [.beta.-amino-.alpha.-hydroxycarboxylic acid derivatives and HIV protease inhibitors](#)
- 34 [6,291,640](#) **T** [Peptidomimetic inhibitors of the human cytomegalovirus protease](#)
- 35 [6,251,382](#) **T** [Biodegradable high molecular weight polymeric linkers and their conjugates](#)
- 36 [6,245,764](#) **T** [.beta.-sheet mimetics and use thereof as inhibitors of biologically active peptides or proteins](#)
- 37 [6,200,952](#) **T** [Combination therapy method for treating chronic hepatitis B](#)
- 38 [6,160,100](#) **T** [Treatment for wilt diseases of trees](#)
- 39 [6,117,840](#) **T** [CS-1 peptidomimetics, compositions and methods of using the same](#)
- 40 [6,110,890](#) **T** [Treatment of Dutch elm disease](#)
- 41 [6,103,870](#) **T** [CS-1 peptidomimetic, compositions and methods of using the same](#)
- 42 [6,090,785](#) **T** [Substituted N-carboxyalkylpeptidyl derivatives as antidegenerative agents](#)
- 43 [6,051,684](#) **T** [Methods of treating neurodegenerative disorders using protease inhibitors](#)
- 44 [6,046,289](#) **T** [Propenamide derivatives containing Arg-Gly-Asp polymers obtained therefrom](#)
- 45 [6,034,215](#) **T** [3-amino-2-oxo-1-piperidnercetic derivatives as enzyme inhibitors](#)
- 46 [6,020,331](#) **T** [.beta.-sheet mimetics and use thereof as protease inhibitors](#)
- 47 [6,015,879](#) **T** [Peptide and peptide analog protease inhibitors](#)
- 48 [6,008,187](#) **T** [Peptide formulation](#)
- 49 [5,977,076](#) **T** [Method and material for inhibiting complement](#)
- 50 [5,969,174](#) **T** [Competitive inhibitors of glyoxalase I and method of generating such competitive inhibitors inside tumor cells](#)

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